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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/608,794

06/24/2003

Kun Ta Lee

1291AAB

6875

7590

06/28/2004

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EXAMINER

MILLER, TAKISHA S

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |              |  |
|------------------------------|-----------------|--------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |  |
|                              | 10/608,794      | LEE, KUN TA  |  |
|                              | Examiner        | Art Unit     |  |
|                              | Takisha Miller  | 2855         |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations of claim 6 must be shown or the feature(s) canceled from the claim(s). For example, applicant claims, “said bar includes a stop pin secured thereto, said hammer includes a stop pin secured thereto, said first and said at least one second resilient members are selectively coupled around said stop pins of said bar and said hammer ...”. Referring to Fig. 4 of applicants’ drawings, examiner points out stop pins (35,36,37) are secured to the beam (30) and there are no resilient members (48) coupled to the stop pins (35,36,37). Examiner assumes applicant is claiming the anchor studs (38), which are secured to the bar, and the anchor studs (47), which are secured to the hammer. Also, the resilient members (48) are coupled around said anchor studs. No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted

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by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. (5,739,411)(hereinafter Lee).

a. With respect to claims 1 and 10, Lee teaches an impact generating device (22) for an impact testing machine (100), said impact generating device (22) comprises a base (1) to be supported in the impact testing machine (100), a hammer (17) slidably supported above said base (1), and movable downwardly toward said base (1), for striking or impacting onto said base (1), and resiliently and adjustably supporting means (13/110) for resiliently and adjustably supporting said hammer (17) above said base (1), to adjustably space said hammer (17) from said base (1) at selected spacing distances, and to adjustably determine a moving distance of said hammer (17) toward said base (1)(Fig.1, Col. 5, lines 1-9).

b. With respect to claim 2, Lee teaches an impact generating device (22) further comprising at least one rod (12) secured to said base (1), and extended upwardly from said base (1)(Fig.4), said hammer (17) including an aperture (17a'/17b,) formed therein

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to slidably receive said at least one rod (12), and to guide said hammer (17) to move up and down relative to said base (1)(Fig.1)(Col. 4, lines 4-6).

c. With respect to claims 3 and 4, Lee teaches an impact generating device (22) further comprising a gasket (17a/17b) with an enlarged head engaged between said hammer (17) and said at least one rod (12), and to smoothly guide said hammer (12) to move along said at least one rod (12)(Fig.1).

d. With respect to claims 8 and 9, Lee teaches an impact generating device (22) wherein said base (1) includes an anvil swelling (33) provided thereon, said hammer (17) includes a hammering block (45) extended downwardly therefrom, and arranged above said anvil swelling (33), to act and impact onto said anvil swelling (33)(Fig.10)(Col. 4, lines 8-17).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (5,739,411) in view of Wislocki (3,998,090).

a. With respect to claim 5, Lee teaches an impact generating device (22) wherein said resiliently and adjustably supporting means (13/110) includes a bar (111) secured on said at least one rod (12), a first resilient member (15) coupled between said hammer (17)

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and said bar (111)(Fig.1). However, Lee fails to teach at least a second resilient member selectively coupled between said hammer and said bar. Wislocki teaches a second resilient member (17) between a hammer (5) and a bar (22)(Fig.1). It would have been obvious to one of ordinary skill in the art to modify Lee to include a second resilient member as taught by Wislocki in order to selectively raise or lower the impact generating device (see Wislocki; Col. 2, line 56 – Col. 3, line 2).

b. With respect to claims 6 and 7, Lee teaches an impact generating device (22) wherein said bar (111) includes a stop pin secured thereto, said hammer (17) includes a stop pin secured thereto, said first resilient member (15) is selectively coupled around said stop pins of said bar (111) and said hammer (17), to resiliently couple said hammer (17) to said bar (111)(Fig.8)(Col. 4, lines 1-4)(Col. 5, lines 22-25). However, Lee fails to teach at least a second resilient member between said hammer and said bar. Wislocki teaches a second resilient member (17) between a hammer (5) and a bar (22)(Fig.1). It would have been obvious to one of ordinary skill in the art to modify Lee to include a second resilient member as taught by Wislocki in order to selectively raise or lower the impact generating device (see Wislocki; Col. 2, line 56 – Col. 3, line 2).

6. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (5,739,411) in view of Moss et al. (2003/0006581)(hereinafter Moss).

a. With respect to claims 11 and 12, Lee teaches an impact generating device (22) comprising a beam (4) secured to said base (1) and extending upwardly from said base (1)(Fig.1) but lacks teaching a first stop pin and a second stop pin slidably engaged in

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said beam to selectively engage with said hammer. Moss teaches a first stop pin (50a) and a second stop pin (50b) slidably engaged in a beam (22a,b) to selectively engage with a hammer/block (18)(Fig. 2)(¶ 0058). It would have been obvious to one of ordinary skill in the art to modify Lee to include a first and a second stop pin as taught by Moss in order to provide height adjustment and versatility of operation (see Moss; Abstract; lines 26-27).

b. With respect to claims 13 and 14, Lee teaches an impact generating device (22) but lacks teaching a flap and seat disposed on said hammer. Moss teaches a flap/guide (34) and seat/slot (38) disposed on said hammer/block (18)(Fig.8). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lee to include a flap and seat as taught by Moss in order to provide height adjustment and versatility of operation (see Moss; Abstract; lines 26-27).


### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Takisha Miller whose telephone number is (571) 272-2184. The examiner can normally be reached on Monday - Friday (7:00 am - 3:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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